THE FINANCES OF THE CONFEDERATE STATES.

THE legislation of the United States during the Civil War introduced three new factors into American finance, namely, the bonded debt, the legal tender notes and the national bank system, — all three the direct or indirect means of carrying on a great war. While the North was driven to these devices for raising money and supporting the government's credit, the South also was attempting every known expedient for securing the necessary revenue with which to repel the Northern invaders. In many ways the North and the South were similarly situated: their organic laws closely resembled each other; their commercial and financial traditions were the same; their financiers had been trained in the same school in Washington; and the demand for revenue was equally pressing in the two sections. Hence it is natural that the financial policies of the two governments should have run more or less closely parallel, the divergencies finding an explanation in the economic isolation of the South and in kindred considerations. To illustrate this similarity of tendency I have selected the three phases in the financial history of this country during the war which were alluded to above, namely, the growth of the public debt, the issue of treasury notes with the legal tender quality in payment of public and private debts, and the creation of a national bank system.[1]

1. *Public Debt and Taxation.*

Every one is familiar with the character of the Federal revenue during the Civil War. A few figures will bring out its

[1] In the preparation of this article I am under great obligations to Mr. R. P. Thian, chief clerk of the adjutant general's office, who has collected from the Confederate archives in the War Department at Washington, a mass of material bearing on the financial history of the South during the war. It is to be hoped that our Congress will soon see fit to have this valuable collection published.

salient features. During the quarter ending September 30, 1861, 92 per cent of the Federal revenue was derived from the issue of bonds and treasury notes. For the fiscal year 1862 the figure was 91 per cent; for 1863, 87 per cent; for 1864 and 1865, 81 per cent. While the part of the Federal revenue which was derived from voluntary and forced loans relatively fell off, the other items relatively increased. The internal revenue system, which did not exist in 1861, appeared first among the sources of revenue in 1863, contributing four per cent to the total revenue in that year, eight per cent in 1864 and 12 per cent in 1865. Revenue from the direct tax appeared first in the fiscal year 1862, when it amounted to one-third of one per cent of the total. In 1865 the corresponding figure was two-thirds of one per cent. The revenue from import duties formed a considerable item during the war, amounting to seven per cent of the total revenue during the quarter ending September 30, 1861, to eight per cent during the fiscal years 1862 and 1863, and declining to seven per cent and five per cent in 1864 and 1865 respectively. In other words, at the beginning of the war, the Federal revenue was practically composed of loans and import duties. In the course of the war these two items decreased in relative importance, and were to a certain extent displaced by the taxation of industry through the internal revenue system.

Turning to the Confederate States, we find that the issue of bonds and treasury notes furnished 99 per cent of the total revenue from July 20 to November 16, 1861. The corresponding figure for the year ending February 17, 1862, was 91 per cent; for the remainder of 1862, 96 per cent; for the first nine months of 1863, 95 per cent; for the six months ending March 31, 1864, 90 per cent, and for the following six months 85 per cent. The largest of the remaining items of revenue was always the so-called war tax, of which more below. This direct tax contributed seven per cent to the revenue during the year ending February 17, 1862; four per cent during the remainder of 1862; nine per cent during the six months ending March 31, 1864, and eleven per cent during the following six months.

Owing to the blockade, the receipts from import duties declined rapidly to one per cent of the total revenue during the year ending February 17, 1862, and to a much lower figure before the end of the war. For the same reason the cotton export duty, of which so much had been expected, yielded only insignificant sums, namely, $1312 from July 20 to November 16, 1861, and $35,756 from January 1, 1863, to October 1, 1864, — the latter sum being equal to perhaps $3000 in specie at the time of collection. Other items of revenue were: confiscated property, which yielded $9,121,283 ($600,000 in specie) from January 1, 1863, to September 30, 1864; refunding of old issues of treasury notes, which yielded $15,089,742 ($700,000 in specie) from April 1 to September 30, 1864; the military exemption tax, yielding $635,537 ($40,000 in specie) from October 1, 1863, to September 30, 1864; patent fees, yielding $52,537 ($11,000 in specie), from February 18, 1862, to September 30, 1864; and several others of minor importance.

A study of these figures establishes the following facts: The Confederate revenue was at the beginning of the war derived almost entirely from loans of various kinds. As the war went on a small but increasing part of the revenue was raised by taxation and by such expedients as confiscation and scaling of the currency. From the character of the situation the Confederate government could not count on a customs revenue, while the economic conditions of the South precluded the possibility of an indirect taxation of industry. Accordingly the South, in developing its revenue system, was obliged to rely on direct taxation, while the North depended little on this method and developed the more its internal revenue system. A comparison of the relative amounts of the Southern war tax and the Northern direct and indirect taxes clearly brings out this fact. But the relatively great importance of direct taxation in the Confederacy is somewhat lessened when we recall that the war tax was apportioned among the states and could be assumed by them. This was done in some cases and state bonds were issued, the proceeds of their sale flowing into the Confederate

treasury in payment of the states' share of the tax.[1] So that a part at least of the war tax was in fact a *loan* effected by the states instead of by the Confederate government.

The common statement that the South carried on the war by means of the unlimited use of the printing press evidently requires some qualification. At the beginning of the war the government was no doubt anxious not to alarm the people with immediate schemes of taxation and hence relied entirely on borrowing;[2] but by 1864 it had developed a system of war taxes[3] which raised eleven per cent of the entire revenue in the states east of the Mississippi, during the half-year ending September 30, 1864. This figure compares favorably with the proportion of Northern revenue derived from direct and indirect taxation during the same period, namely, fifteen per cent. In addition to the war taxes, payable in currency, the taxes in kind must have weighed heavily on the people; but of this form of forced contribution we have unfortunately but scanty records. This is also true of the extended system of impressments. However, as impressed articles were presumably paid for with bonds or treasury notes, the income under this head is included among the receipts from loans. If we add to the Confederate tribute the state and local taxes, which were collected with more or less difficulty, we get a fair picture of the very considerable burden of taxation in the South during the war.

The generally accepted notion that the financial policy of the Confederacy may be characterized as a series of blunders is far from the truth. The statesmen of the South saw the necessity of taxation as clearly as did those of the North. Considering the conditions imposed upon their country, on the one hand by

[1] Acts: Alabama, Nov. 27, 1861 (Joint Resolutions, Dec. 8, 1862); Mississippi, Dec. 20, 1861; South Carolina, Feb. 6, 1863; North Carolina, Feb. 17, 1862; Virginia, Feb. 21, 1861, March 12, 1863.

[2] E. A. Pollard, Life of Jefferson Davis (1869), pp. 171–172; Speech of Vice-President A. H. Stephens, quoted in Appleton's Annual Cyclopædia for 1861, p. 143; F. H. Alfriend, Life of J. Davis (1868), p. 483.

[3] Secretary Memminger's Report, July 24, 1861. Confederate Acts, Aug. 19, Dec. 19, 1861; Sept. 23, 1862; March 28, April 24, May 1, Nov. 18, Dec. 1, Dec. 28, 1863; Jan. 30, Feb. 17, June 1, 1864; Feb. 23, March 11, March 13, 1865. David Dodge in *Atlantic Monthly*, 58, 242 (Aug. 1886).

the Federal forces, which blockaded the coast and overran the interior, thereby preventing the collection of duties and largely hindering the levy of taxes, and on the other hand by the economic conditions of the country, which had established no extended industries that could be reached by indirect taxation, the Southern financiers deserve credit for their strenuous efforts to find other sources of revenue besides the issue of bonds and treasury notes. Equally creditable were the efforts to float Confederate bonds in preference to issuing treasury notes. From May 11 to July 19, 1861, only 17½ per cent of the total revenue was raised by floating bonds. During the following four months the fraction rose a trifle. During the six months ending August 18, 1862, the figure was 28 per cent, during the first nine months of 1863, 30 per cent, and during the six months ending March 31, 1864, 49 per cent. In the mean time the proportion of the total revenue raised by issuing notes had fallen from 68½ per cent during the first year of the Confederacy to 41 per cent during the six months ending March 31, 1864. In a word, these figures prove that up to 1864 the Confederate government had succeeded in relatively increasing its revenue from the sale of bonds and in relatively decreasing its paper money issues. But the summer of 1864 changed everything. The campaigns of Grant and Sherman turned the tide; the price of Confederate bonds fell to a ruinously low figure in the market, and during the half-year ending September 30, 1864, only 14 per cent of the revenue was derived from the sale of bonds, while 71 per cent came from note issues.

2. *Legal Tender Notes.*

The North was not alone in agitating for a legal tender act. The question of the advisability of declaring treasury notes receivable in payment of all debts, both public and private, was fiercely debated in the South before and after the same question in the North had been definitely answered in the famous law of February 25, 1862. The arguments against the adoption of such a measure by the Confederate Congress were the

counterpart of the arguments of the opponents to the Federal act of 1862.

The constitutional question was essentially the same in North and South. Both constitutions granted to the Congress, in practically the same words, the power to borrow on the credit of the government, to coin money, to wage war and to make the necessary laws for carrying the delegated powers into execution.[1] But the clause in the Federal constitution which granted the Congress power

> to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States,

was modified by the Confederate constitution. In its final form the wording of the clause in the latter instrument authorized Congress

> to lay and collect taxes, duties, imposts and excises, for revenue necessary to pay the debts, provide for the common defence, and carry on the government of the Confederate States.

It is to be noted that besides omitting the general welfare clause, this wording once for all put at rest the controversy as to whether the taxing power and the power to provide for the common defence and carry on the government were granted as two distinct powers, or whether the latter was merely a qualification of the former. The clause, however, bears on the legal tender question only as an illustration of the strict-constructionist views prevalent in the Confederacy.

I find the first reference to an agitation in favor of a legal tender act in a letter of E. J. Forstall to Duncan F. Kenner, chairman of the ways and means committee, dated July 8, 1861. The writer says: "A plan is now agitating making treasury notes a legal tender. This would be bankruptcy to begin with, the destruction of public and private credit and of all confidence between man and man." He then cites the his-

[1] Federal Constitution, art. 1, sec. 8, cl. 2, 5, 11–16, 18. Confederate Provisional Constitution, art. 1, sec. 6, cl. 2, 5, 11–16, 17. Confederate Permanent Constitution, art. 1, sec. 8, cl. 2, 5, 11–16, 18.

tory of the Continental currency and of the French *assignats*, which has been so often repeated in legal tender discussions. John P. Richardson, ex-governor of South Carolina, writing to the secretary of the treasury on July 10, 1861, points out the great temptation to declare the treasury notes a legal tender, as a means of helping the government in its purchase of supplies, but he calls attention to the wise constitutional prohibition, which ought under no circumstances to be violated. James D. Denègre, president of the Citizens' Bank of New Orleans, whose advice was always welcomed by the Treasury Department, was also opposed to the passage of such an act, holding that it would be neither "wise, prudent nor politic."[1]

There were others, however, who thought differently and who demanded on one plea or another the passage of a legal tender law.[2] Petitions to this effect began to be presented to the provisional government. The Congress took up the matter on July 19, 1861, and on motion of A. H. Garland, of Arkansas, instructed its finance committee to inquire into the expediency and necessity of making the Confederate bonds and treasury notes (under the act of May 16, 1861) a legal tender during the war. A fortnight later James A. Seddon, of Virginia, moved to amend the act of May 16, 1861, so as to make treasury notes receivable in payment of any debt due to corporations or individuals, but the motion was lost. No other motion of this kind seems to have been made in the provisional Congress, and the question was not taken up again till the first session of the permanent Congress (February 18 to April 21, 1862).

During the first year of the Confederacy, ending with February 17, 1862, the question of legal tender had hardly become very pressing. $31,186,445 had been realized by the sale of bonds, and $95,795,250 in treasury notes had been issued; the latter were quoted at par with gold till April, 1861, and then slowly declined in value, gold being quoted at 120 by the end of the year. So far the difficulties of the financial situation had not been insuperable, and the arguments for a legal tender act

[1] Denègre to Memminger, July 21, 1861.

[2] *Cf.* Wm. C. Smedes, of Vicksburg, to President Davis, July 10, 1861.

were not as seriously considered as in the following year when the situation had changed.

During the provisional Congress the necessity and constitutionality of a legal tender act had been urged by P. H. Skipwith, of Louisiana, in a letter to Secretary Memminger dated July 19, 1861. He based his belief in the constitutionality of such an act on the clause of the constitution which conferred upon the Congress the power to enact all laws necessary and proper to carry into execution the expressly granted power of declaring war and supporting armies. The argument of implied powers appears here for the first time. Its importance in the Federal Congress in January and February, 1862, is familiar to all.[1] The chief point of the argument was that the constitution could not consistently grant to Congress the power to wage war, and at the same time deprive it of the most efficient tool for the purpose, — one that had so often been used by other nations in a similar situation. The constitutionality of a possible legal tender act first came up in the permanent Congress of the Confederacy on February 25, 1862, the date of the passage of the Federal legal tender act. On motion of Joseph B. Heiskell, of Tennessee, the question was referred to the House judiciary committee. On March 4 another bill of the same kind was referred to the same committee, which made a non-committal report March 29. In the mean time the Senate had been busy with legal tender bills. One introduced early in the session was reported unfavorably by the finance committee March 13. The members of the committee were Barnwell of South Carolina; Hunter of Virginia; Davis of North Carolina; Simms of Kentucky and Henry of Tennessee. On the following day Semmes of Louisiana introduced a substitute bill, which was discussed in the Senate March 21–25, but was not acted on before the end of the session.

The continued discussion of the legal tender acts in the first session of the first permanent Congress aroused the newspapers to take sides for or against such measures. The *Richmond*

[1] *Cf.* Congressional Globe, 37th Congress, 2d session, p. 679, Feb. 6, 1862; *N. Y. Times* (editorial), Jan. 27, 1862.

Dispatch and the *Richmond Whig* favored a legal tender act as a war measure,[1] the *Charleston Mercury*[2] opposed it as inexpedient. The pressure brought to bear on the Congress by the friends of the policy was very great. A legal tender act was extolled as the only means of sustaining the government's credit, and as an accommodation to the loyal and a check to the disloyal. This appeal to patriotism reminds one forcibly of the speeches on the corresponding occasion in the Federal Congress in February, 1862.

At the beginning of the next session of the Confederate Congress, on August 18, 1862, Representative L. J. Gartrell, of Georgia, introduced a bill to make treasury notes a legal tender in payment of all debts. The bill was as usual referred to the judiciary committee and was reported against by that body a month later (September 30, 1862). Henry S. Foote, of Tennessee, who is mentioned as representing the opposition to President Davis,[3] was one of the champions of the legal tender cause, and made a number of unsuccessful efforts to introduce the principle into various acts by proviso.[4] On the last day of the session, October 13, Representative Thomas J. Porter, of Alabama, offered another bill making treasury notes a legal tender, with heavy penalties upon refusal to accept them. The session closed, however, without any action in the matter.

In the following session, on January 14, 1863, William G. Swan, of Tennessee, introduced a bill in the House authorizing an issue of $250,000,000 in treasury notes in denominations of one dollar and upwards, to be receivable in payment of all debts. A few days later[5] Francis S. Lyon, of Alabama, offered a resolution authorizing the President to induce the state legislatures to enact laws making all debts thereafter contracted payable in Confederate notes. These and all other legal tender bills were buried in the judiciary committee,[6] and the matter rested there for some months.

[1] *Richmond Dispatch* (editorial), April 11, 1862; *Richmond Whig* (editorial), Sept. 6, 1862.
[2] Editorial, April 10, 1862.
[3] E. A. Pollard, *The Galaxy*, 6, 757 (N. Y. Dec. 1868).
[4] Confederate House Journal, Oct. 6 and 8, 1862.
[5] *Ibid.* Jan. 17, 1863.
[6] *Ibid.* Feb. 5, 1863.

The financial difficulties of 1862 tried to its utmost the strength of the Congressional opposition to a legal tender act. The capture of New Orleans gave a new aspect to the war. During the six months ending August 18, 1862, $114,984,320 in treasury notes had been issued and $214,310,565 more were emitted before the end of the year. On August 11, $206,044,035 in notes were outstanding, over $180,000,000 of which did not bear interest. By the end of the year the amount outstanding had risen to $410,629,692.

The paper money craze had become wide-spread. The states had issued large amounts of treasury notes, mostly in small denominations, and evidently designed to take the place of the fractional coins, which had disappeared from circulation and had not yet been replaced by Confederate fractional paper currency. Counties, cities, railway and manufacturing corporations and individuals had joined the movement by issuing and circulating their notes. The banks had immensely extended their note issues, under authority readily granted by the state legislatures, while large numbers of new banks of issue had been chartered. As a consequence of this inflation of the currency prices had risen enormously. By December, 1862, wheat in Richmond was selling at four dollars, corn at three dollars, oats at two dollars per bushel, and flour at $20 to $25 per barrel. Gold was quoted at 250 in September. In the face of these facts it is not surprising that certain classes demanded the passage of a legal tender law. The government was being plunged into ever deeper difficulties, and many urged that a legal tender law was the only means of rescuing it from certain and immediate ruin.

There can be no reasonable doubt that it was the Confederate constitution, as interpreted by the majority in the Congress, which mainly prevented the adoption of such a measure. A correspondent of the *Richmond Enquirer*[1] suggested a constitutional amendment to legalize the issue of legal tender notes, but so far as I know the suggestion was not seriously considered. Those who favored a legal tender act either held that such a

[1] *Richmond Enquirer*, Jan. 20, 1863.

measure was distinctly constitutional, or else waived the point of constitutionality and demanded its passage as a war measure. Some based its constitutionality on the power granted the Congress to coin money and regulate its value,[1] — an argument which, when offered in the Federal Congress nine months before, had been almost ridiculed. Another plea for its constitutionality was one that had carried much weight in the Federal Congress. This argument, as stated by the *Richmond Whig* of October 6, 1862, hinged on the absence of any constitutional prohibition of the government to make its notes a legal tender, and *per contra* on its implied power to do so.[2] As a matter of fact, however, it is evident that in the demand for legal tender legislation in both North and South in 1862 the constitutionality of the acts was practically waived and their expediency as war measures was emphasized. "Constitutional or not," the measure was urged as necessary to enable the governments to carry on the war.[3] The North was convinced by this argument, the South was not.

The military disasters of the year 1863 greatly increased the financial troubles of the Confederate States. During the first nine months of the year $391,623,530 in treasury notes were issued, which raised the total amount outstanding on September 30, 1863, to above $700,000,000. The currency had experienced a corresponding fall in value. Gold, which had been quoted at about 250 in January, rose to 400 in May, 1000 in August, 1200 in November and 2000 in December. This decline in the value of the currency aroused many appeals for a legal tender law. It was pointed out to Secretary Memminger[4] that the constitution was inconsistent in empowering the Congress to issue treasury notes, which the people generally looked

[1] *Richmond Whig*, Sept. 4, 1862.

[2] *Cf.* Spaulding, of the Federal ways and means committee. Congressional Globe, 37th Congress, 2d session, p. 525, Jan. 28, 1862. I intentionally omit all reference to the arguments which established the constitutionality of the act of Feb. 25, 1862, in the mind of the Federal Supreme Court.

[3] *New York Herald*, Jan. 20, 1862; *New York Times*, Jan. 27, 1862; *Richmond Enquirer*, Aug. 26, 1862; Messrs. Spaulding and Kellogg in the Federal House of Representatives.

[4] A. Miller to Memminger, Nov. 10, 1863.

upon as money, but in not allowing that body to declare them a legal tender. The constitutionality of the desired measure, however, found few supporters. Senator Brown, of Mississippi, in arguing for a legal tender bill in the Confederate Senate, on December 24, 1863, confessed his doubts on the constitutional question, but urged the passage of the measure on the plea of necessity. He held, indeed, that the constitution contained no prohibition against the Congress, and that only the states were forbidden to "make anything but gold and silver coin a tender in payment of debts"; but in point of fact, his whole argument hinged on the expediency of the bill. The government, he said, had already made the notes practically a legal tender in its transactions; it was compelling its own creditors to receive them; why should not all other creditors be treated in the same way? The opponents of the proposition employed the same constitutional arguments that were used by Mr. Pendleton in the Federal House of Representatives, when the act of February 25, 1862, was under discussion.[1] The *Augusta Daily Constitutionalist* said on November 25, 1863: "Congress has been importuned to make the treasury notes a legal tender, but that body had more regard for the constitution than Lincoln's Congress, and refused every time the bill was up, by overwhelming majorities." The Georgia newspaper held that such an act, besides being unconstitutional, would be a gigantic folly, which would accomplish no good and much harm.[2]

A number of other attempts at legal tender legislation were made during the winter of 1863–64. Senator Phelan's bill, providing that the coupons of certain bonds that were to be issued should be, when due, a legal tender in payment of all debts, was introduced on December 10, 1863, reported adversely by the finance committee on January 25, and finally tabled February 3, 1864. Senator Orr's two bills met a similar fate.[3]

The legal tender question ceased to be discussed by the end of the first Congress (February 18, 1864). The opposition to

[1] Congressional Globe, 37th Congress, 2d Session, p. 549, Jan. 30, 1862.

[2] See also the *Richmond Sentinel*, Jan. 14, 1864.

[3] Confederate Senate Journal, Feb. 9 and 16, 1864.

a legal tender act, both on the score of its unconstitutionality and of its futility, had been too strong, and no such measure could have been passed, nor was any further attempt made in that direction. Indeed, had a bill been passed, President Davis, it is certain, would have vetoed it. The cessation of the legal tender agitation was in part due to the fact that another plan to remedy the currency disorders had been discovered, which, on trial, for the time being gave satisfaction. I refer to the important act of February 17, 1864,[1] which provided for a reduction of the currency by a forced funding and taxing of the treasury notes. Few took the trouble to argue for the constitutionality of this partial repudiation of the Confederate debt, but those that did so justified the measure by the government's power of taxation.[2]

It is interesting to compare the action of the Congress in passing this repudiation measure with its stubborn refusal to pass any legal tender act. The same Congress which for three years had opposed the latter measure, largely on constitutional grounds, finally passed an act which was equally repugnant to both the spirit and the letter of the constitution,[3] and which, as a war measure, was in the end as futile as a legal tender act would have been. Why should the Congress have refused to invade personal rights and to tamper with contracts by a legal tender act, and still have seen fit to enact a law which on the face of it had a similar effect through the arbitrary reduction of Confederate indebtedness?

The constant opposition of the Confederate law makers to a legal tender act is easily understood when we remember the principle of strict constitutional interpretation which the large majority of them maintained and had maintained before the war. In the North this principle was quickly swept away in the stress of the conflict. In the South it asserted itself and for four trying years prevented the passage of any law making

[1] Laws of the 1st Congress, 4th session, ch. 63: "An act to reduce the currency and to authorize a new issue of notes and bonds."

[2] *Richmond Enquirer*, Oct. 30, Nov. 2, 1863.

[3] Confederate Permanent Constitution, art. i, sec. 8, cl. 4: " . . . no law of Congress shall discharge any debt contracted before the passage of the same."

the Confederate treasury notes receivable in payment of debts. Not until the expiring days of the Confederacy was the principle at last compromised by the passage of an act on March 18, 1865, making certificates of indebtedness receivable in payment of articles impressed for the government.

We cannot pass by unnoticed the fact that the state legislatures did not remain as true to the constitution as did the Confederate Congress. Besides making the Richmond government's treasury notes receivable for state and local taxes, the state legislatures went much further and in several instances enacted laws which aimed at legalizing the tender of these notes for all debts, private as well as public. In other words, while the Congress hesitated to pass such an act as transcending its delegated powers, the state legislatures passed similar measures in direct violation of the clause in the constitution[1] which forbade a state to make anything but gold and silver coin a tender in payment of debts. An act of Alabama, of December 10, 1861, provided that current bank notes and Confederate bonds and treasury notes must be received when tendered in payment of a judgment. A similar law in Arkansas, of November 18, 1861, made the state bonds and treasury notes a legal tender, thereby also violating the constitutional prohibition of state bills of credit. A Florida law of December 3, 1863, after a long preamble denouncing the mean and selfish persons who discredited Confederate notes, provided that the refusal to accept such currency by any one who was exempt from military service, should terminate the exemption, and that the offender should be immediately placed in service. Georgia, by act of December 14, 1863, provided that in addition to the taxpayer's usual oath he must swear as to whether he had or had not refused Confederate notes in payment of any claims due him. An act making these notes receivable for taxes by the state was vetoed by the governor on December 15, 1863,[2] partly on the ground that it violated the clause of the Confederate constitution which forbade the states to make anything but coin a legal tender.

[1] Confederate Provisional Constitution art. i, sec. 8, cl. 1; Permanent Constitution art. i, sec. 10, cl. 1.

[2] *Savannah Daily Morning News*, Dec. 25, 1863.

These examples are sufficient to illustrate the difference between the attitude of the state legislatures and that of the Congress.

I have aimed to bring out the characteristic features of the legal tender movement in the South during the war, the identity of the Federal and Confederate arguments for and against a legal tender act, and the different results of the agitation in the two sections. A closer examination of this parallel movement would establish the fact that during the war the constitutionality of a law making government notes a legal tender in payment of all public and private debts was never satisfactorily established either in the North or in the South. What results constitutional interpretation has reached since the war, has no bearing on the question. The Northerners and Southerners who favored a legal tender act during the Civil War did so primarily in the belief that the war could not be carried on without it.

3. *National Bank System.*

The banking policy of the South during the war forms an important chapter in the financial history of the Confederate States. That history is incomplete without a sketch of the help the banks gave to the government, especially at the beginning of the war, and of the part the state banking laws played in the currency legislation of the period. While leaving this general field untouched, I wish to call attention in particular to the abortive movement in the South which paralleled the successful Northern movement that resulted in the Federal national bank system as established by the act of February 25, 1863.

As was said above, the Southern banks were influenced by the paper money craze, and having suspended specie payment, they found no difficulty in obtaining the necessary authority from the state legislatures to enlarge their note issues,[1] the laws often limiting the issue to twice the amount of the bank's capital. It was soon felt that these bank notes were competing with the Con-

[1] Typical acts were those of Florida, Feb. 14, 1861; North Carolina, Feb. 25, 1861; Mississippi, Jan. 17, 1862; Louisiana, Jan. 20, 1862; Georgia, Dec. 13, 1862.

federate treasury notes and depressing the value of the latter as currency.[1] As compared with Confederate notes, the Virginia bank notes were quoted at 1 : 2⅓ in March, 1863, 1 : 5 in July, 1863, and 1 : 7 in February and November, 1864. Under these circumstances the idea was often suggested of establishing some kind of Confederate national bank or banks, which might improve the currency and at the same time furnish a market for the government bonds. A correspondent of the Treasury Department suggested a bank on the plan of the Bank of England. Thirteen states were to subscribe $1,000,000 each, and a further $1,000,000 was to be sold to private shareholders. With this paid up capital of $14,000,000 he hoped successfully to circulate from twenty-five to forty millions in bank notes.[2] Later in the year a correspondent of the *Richmond Whig* (November 27, 1861) proposed the incorporation by the Congress of a joint stock bank with a paid up capital of $10,000,000, to be invested in Confederate bonds and to serve as a basis for the issue of an equal amount of bank notes, redeemable one year after the ratification of peace, and countersigned by the government. An additional $10,000,000 in these notes were to be issued upon the deposit with the government of a like amount of produce certificates, — a particular kind of Confederate bond. In February, 1862, a system of free banking was suggested, after the model of the familiar system in New York.[3] The states were to authorize the banks to issue notes on depositing with the state governments one-half of their paid up capital in state or Confederate bonds. The government was to countersign the notes, and in case the banks failed to redeem them, a sufficient number of the bonds were to be sold for the purpose. At the time this suggestion was made Confederate and state bonds were selling at par in currency, or at 80 in specie. How the currency could be improved by an issue of bank notes based on bonds which were declining in value was not explained.

[1] *Richmond Examiner*, Nov. 9, 1861; *Richmond Dispatch*, Sept. 9, 1863.

[2] W. Murdock to Memminger, April 18, 1861. *Cf. Augusta Daily Constitutionalist*, Feb. 9, 1864. For a similar suggestion see W. Yerger to Congressman W. P. Harris, July 14, 1861. *Cf. Richmond Dispatch*, Oct. 28, 1861.

[3] *Richmond Whig* (letter), Feb. 19, 1862.

Almost the identical suggestion was made by Duff Green two years later,[1] at a time when Confederate eight per cent registered bonds were selling at $7.40 in specie, six per cent and seven per cent bonds at five dollars, Virginia six per cent registered bonds at twelve dollars and coupon bonds at twenty-four dollars in specie, the face value in each case being $100.

Other similar plans were offered in which everything hinged on the government's credit, but with one exception no attempt was made to carry them out. This exception occurred during the last days of the Confederacy. On February 25, 1865, an act was passed establishing offices of deposit in connection with the Confederate Treasury. These offices, to be established throughout the South, were to receive on deposit, from all persons offering them, current funds and drafts on the Treasury Department, and were to pay out on checks drawn by the depositors. No interest was to be paid on deposits, which were guaranteed by the "government's faith." How high the latter was rated at the time may be seen from the fact that on March 11 a $500 bond sold for six dollars in specie. The government was allowed by the act to borrow under certain regulations from the deposit offices up to two-thirds of the amount of deposits. Furthermore, depositors were encouraged by an offer to remit one-half the tax on treasury notes and bonds in the case of deposits of more than three months. How successful the scheme was, or whether it was ever put into practice, I do not know.

While the Confederate Congress never took the necessary step to establish a banking system in which the bank notes should be secured by a deposit of government bonds, various state legislatures adopted such a measure. Thus an act of Alabama of December 9, 1861, authorized a savings bank at Mobile to deposit Confederate or state bonds with the state comptroller and to issue notes in denominations of one dollar and over to the extent of twice the face value of the bonds deposited. The bank's shareholders were made liable for double the amount of their stock. If the bank failed to redeem its notes in specie, the comptroller was empowered to sell the

[1] *Richmond Enquirer*, Jan. 16, 1864.

bonds he held and then to call on the shareholders. A more effective scheme was adopted in Georgia.[1] The Cotton Planter's Bank of Thomasville was incorporated in 1861 with a capital of $3,000,000, which was to be subscribed in Confederate or state bonds or in cotton at thirty dollars a bale. The bank was authorized to issue notes, dollar for dollar, upon such bonds or cotton. In the following year there was some talk of extending the system,[2] which it was thought would raise the price of Confederate bonds, then selling at forty dollars in specie; but the state legislature acted differently, and amended the Thomasville bank's charter[3] so as to authorize its issuing notes up to three times the amount of paid up capital, thus practically reversing the former policy.

In Virginia a similar attempt to secure the bank notes was made on a larger scale. In this state numerous banks had been chartered after 1851, under laws which were modelled upon the New York free banking system. Under these laws a bank deposited with the state treasurer state bonds or internal improvement companies' bonds guaranteed by the state and bearing six per cent interest. The amount of deposit was limited by the amount of capital. The banks then issued notes in denominations of five dollars and above, up to the full amount of the bonds deposited, in some cases up to the market value, but not above the face value. The notes were expressly "secured by pledge of state securities" and were countersigned by the treasurer. This state official exchanged worn and mutilated notes for new ones. In case a bank was unable or unwilling to redeem its notes, he sold the bonds and applied the proceeds to their redemption. A cash reserve in specie equal to one-fifth of the outstanding notes was required. When the reserve was reduced below that figure, the bank ceased discounting and loaning until the minimum was again reached. Finally a bank could retire its note circulation by redeeming with its notes the bonds which it had on deposit in the state treasury, the notes being then cancelled. By extending the

[1] Act of Dec. 14, 1861. [2] *Richmond Examiner*, Oct. 10, 1862.
[3] Act of Dec. 13, 1862.

bank charters which were about to expire in 1861, this system of secured bank notes was strengthened and it had an important influence upon the currency during the war. The system was somewhat modified by the Virginia act of March 29, 1862, which authorized the issue of a limited amount of unsecured bank notes of small denominations. Notwithstanding this modification, the system must have had an influence on the standing of Virginia bank notes, which all through the war were quoted at a less discount in gold than the bank notes of other states, and, of course, at a far less discount than the Confederate treasury notes.

The absence of any serious attempt to introduce a Confederate national bank system on lines similar to those of the Federal system, finds an easy explanation in the rapid decline of the Confederate bonds, on which a possible bank note issue would have been based. The eight per cent bonds of the $15,000,000 loan act of February 28, 1861, were quoted at eighty in specie in March, 1862, at thirty to thirty-four in April, 1862, at twenty-five in July, 1863, at seven to nine in December, 1863, at five to six in September, 1864, and later at a still lower figure. The eight per cent bonds of the $100,000,000 loan act of August 19, 1861, fared still worse. The credit of the Confederate government was never sufficient to furnish a basis on which to erect a banking system. Then, too, the government felt that any attempt to improve the bank note currency would react upon the treasury notes and depress them still more. The banks were regarded as the greatest foes of the government paper money, and any measure that would strengthen them in their opposition was out of the question.

The above is but a sketch of three phases in the financial history of the Confederate states. Enough has been said to point out the importance of the financial policy of the South, especially when compared with the policy of the North during the war. A study of Southern history during that disastrous, but interesting period, teaches uncommonly suggestive lessons in matters of currency, banking and public finance.

J. C. SCHWAB.